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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	

COMMENTS OF AMERITECH ON NOTICE OF PROPOSED RULEMAKING

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Dated: January 29, 1997

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I. INTRODUCTION AND SUMMARY.

Ameritech supports the Commission's ambitious and timely effort to restructure its access charge regime.[1] The Commission's NPRM properly recognizes the importance of expeditiously revising the current access charge and price cap rules to promote the procompetitive and deregulatory goals embodied by Congress in the Telecommunications Act of 1996 ("the Act"). The Act itself, the Commission's orders implementing the interconnection aspects of the Act,[2] and

[1] In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, CC Docket Nos. 96-262, 94-1, 91-213, Notice of Proposed Rulemaking, Third Report and Order, FCC 96-448 (released December 24, 1996) ("NPRM").

[2] In the Matter of Implementation of the Local Ecometition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-96, First Report and Order, FCC 96-325 (released August 8, 1996); Second Report and Order, FCC 96-333 (released August 8, 1996); and Order on Reconsideration, FCC 96-394 (released September 27, 1996).

the Joint Board's recent recommended decision on universal service[3] make the need for access charge reform immediate.

Competition for access services commenced with the proliferation of fiber optic technology years ago. The Commission's procompetitive policies, including those established in the Expanded Interconnection Proceeding,[4] have greatly accelerated competition in recent years. As a result, competitive access providers ("CAPs") provide alternative sources for access services in all major markets in the Ameritech region. The Act now further ensures unrestricted competition in the provision of exchange access services by requiring incumbent local exchange carriers ("ILECs") to provide unbundled network elements ("UNEs") at cost-based rates for the provision of local exchange service and exchange access. Therefore, all barriers to the competitive provision of access services by competitive local exchange carriers ("CLECs"), by CAPs, and by interexchange carriers ("IXCs") through self-provisioning have been removed.

The ability of these carriers to purchase UNEs from ILECs at cost-based rates and to use them to provide exchange access eliminates the ability of ILECs to charge unreasonable rates for their access services. In addition, competitive entry will be influenced by, and will in turn influence, the terms and conditions of

[3] In the Matter of Federal State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, FCC 96J-3 (released November 8, 1996).

[4] In the Matter of Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Report and Order, FCC 92-440 (released October 19, 1992) ("Expanded Interconnection Order").

the ILECs' own offerings, including access services. Therefore, to minimize social costs and maximize social benefit, competitive entry should be on an economically "efficient" basis in response to price signals that reflect the fact that entry is virtually unimpeded.

If customers are to benefit from efficient competition, the Commission should modify its access charge regime in two ways: first, it should alter the access rate structure to more closely reflect the manner in which costs associated with providing access services are incurred;[5] and, second, it should adopt its market-based approach in reforming its regulation of access charges to permit pricing flexibility necessary in a competitive environment.[6] The market-based proposals offered by the Commission in the NPRM, with certain modifications, provide an excellent basis for implementing these essential changes. On the other hand, the so-called "prescriptive" approach discussed by the Commission[7] is completely inconsistent with the Act's deregulatory goals and would actually be anticompetitive in its effect.

[5] NPRM at § III.

[6] Id. at § V.

[7] Id. at § VI.

Ameritech submitted a comprehensive access charge plan to the Commission on December 6, 1996,[8] which is consistent with many of the proposals set forth in the NPRM. This is particularly true with regard to the rate structure modifications.

In these comments, Ameritech will again propose that the Commission give consideration to adopting a Loop/Port Recovery ("LPR") charge, the pricing flexibilities and the transport interconnection charge ("TIC") transition mechanism set forth in December 6 Letter. If adopted, Ameritech's plan will result in lower access rates while allowing ILECs to make appropriate rate level and rate structure changes.

Ameritech will also show that the rate structure modifications, particularly the TIC transition, must be part of a total comprehensive package for reforming access. This total comprehensive package must embrace rate structure modifications and pricing flexibilities that allow access rates to better reflect underlying cost while allowing time for the ILECs to adjust to market changes without prescriptive regulatory mandates. Furthermore, these rate structure modifications and pricing flexibilities must be consistent with a market-based

[8] Letter from Anthony Alessi, Federal Relations Director, Ameritech, to William F. Caton, Acting Secretary, FCC, December 6, 1996 ("December 6 Letter"). Although it is already part of the record in this docket, Ameritech includes a copy with these comments (as Attachment A) for the convenience of the Commission and the parties to this proceeding.

approach that enables ILECs to respond to competition in an economically rational manner, thus providing customers with the benefits of the competitive process.

For "baseline" modifications to the existing access rate structure, it is critical that any remaining subsidies be removed from the surcharges on ILEC switched access service. In particular, to the extent that subscriber loop (including line-side switch port) costs are not recovered from the end user, they should be removed from the carrier common line ("CCL") charge and from local switching and instead be recovered from all IXCs in a competitively neutral fashion based on relative retail revenues. The same is true for the information surcharge, the costs of which are driven by the provision of local exchange service to the subscriber.

Further, the tandem-switched transport rate structure should be modified to reflect the non-traffic sensitive ("NTS") nature of certain aspects of the service. Also, tandem costs currently recovered by the TIC should be recovered in the tandem switching rate element from customers that use tandem switching.

Finally, because of its role in contributing to ILECs' ability to maintain affordable local exchange service, the balance of the TIC should be removed as a surcharge on ILEC local switching and instead recovered in a competitively neutral manner from all IXCs based on relative retail revenues. The Commission should reject the IXCs' demands for an immediate flash-cut elimination of the TIC

which could jeopardize universal service by impairing the ILECs' ability to provide affordable basic local exchange service. Ameritech proposes that the balance of the TIC may be phased out in equal increments over five years, but only if significant pricing flexibilities are granted that allow the ILECs to manage this reduction in revenues.

Nevertheless, the most important part of the NPRM addresses the progression to ultimate deregulation of access charges. In this regard, the Commission's proposed market-based approach deserves high praise. Permitting the marketplace to determine the nature and extent of regulatory reform is consistent with the pro-competitive and deregulatory national policy adopted by Congress in the Act. The Commission's market-based approach avoids the marketplace distortions and inefficiencies that are unavoidable with regulatory "prescriptions."

Ameritech agrees that Phase 1 relief is appropriate when the Commission's proposed triggers have been met. However, meeting the first four requirements with slight modifications, discussed herein, should be sufficient to grant Phase 1 relief. The remaining triggers that the Commission discusses are related to full local exchange competition, which is not relevant to determining the level of access competition. These additional conditions, when met, should just serve to increase the confidence of the Commission that potential competitive entry will be a restraint to the incumbent.

In addition to the specific changes proposed by the Commission -- i.e., geographic deaveraging, volume and term discounts, contract and individual competitive response tariffs, and deregulation of new services -- it would also be appropriate to permit ILECs to offer "growth" discounts and to reduce the price cap productivity factor for the "no sharing" option.

Phase 2 should begin with the demonstrated presence of actual competition. The Commission's second and third proposed triggers -- the availability of competitively neutral universal service support mechanisms and effective enforcement of pro-competitive rules -- should be eliminated since they are vague, beyond the control of ILECs, and are independent of marketplace forces.

Also, in addition to the specific regulatory changes proposed by the Commission -- elimination of service categories within baskets, consolidation of traffic sensitive and trunking baskets, removal of the rate structure rules for transport and local switching, and permitting differential pricing for access to different classes of customers -- the Commission should eliminate the price cap X-factor (productivity offset) entirely. The X-factor constrains price cap LEC pricing in an artificial way that is unnecessary and that distorts the competitive environment of Phase 2.

Finally, the Commission is correct to conclude that, regardless of the overall competitive "phase" of regulation an ILEC is in, price cap and tariff regulation should be removed completely for an individual service when the ILEC faces

substantial competition for that service or when the ILEC cannot otherwise dictate its price movement.[9] In that regard, the Commission should immediately deregulate ILEC provision of high capacity transport services in certain LATAs, interexchange services for BOCs (interstate, intraLATA and corridor services) and directory assistance service (to the extent currently regulated by the Commission as an access offering).

II. THE ACCESS RATE STRUCTURE SHOULD BE MODIFIED TO BETTER REFLECT THE WAY IN WHICH COSTS ARE INCURRED.

As noted above, because the Commission's pro-competitive rulings in its Expanded Interconnection Proceeding have been substantially augmented by the provisions of the Act, it is important that the current access rate structure be revised so that rates for various access services can reasonably reflect the manner in which the costs of providing those services are incurred. Integral to this revision is the removal of subsidies from access rates and the establishment of a means to recover subsidies in a competitively neutral manner from IXCs based on their relative share of interstate retail revenues. These reforms will encourage entry by only those competitors that can provide service more efficiently than the

[9] NPRM at ¶ 152.

ILEC while at the same time permitting customers to benefit from true price competition.[10]

A. Common Line Costs Should Not Be Recovered By a Surcharge on Access Services.

1. Subscriber Loop Costs Should Be Removed from the Common Line Charge and Recovered by a Competitively Neutral "Loop/Port Recovery Charge."

Ameritech agrees with the Joint Board that subscriber loop costs are NTS costs and, therefore, recovery through the current usage sensitive CCL charge is economically inefficient.[11] However, that cost recovery mechanism is also objectionable because, contrary to §254 of the Act, it involves an implicit subsidy from interexchange services to the local exchange service that "causes" those loop costs. As described in its December 6 Letter, Ameritech suggests that the ILECs' interstate portion of the subscriber loop costs that are not recovered by the subscriber line charge ("SLC"), the associated line-side switch port costs, and the costs of white pages directory production be recovered via a Loop/Port Recovery ("LPR") charge.[12]

[10] "Access, Regulatory Policy, and Competition," Dr. Kenneth Gordon, Senior Vice President, National Economic Research Associates ("Gordon Paper"), included as Attachment B, at 17-19.

[11] NPRM at ¶ 59.

[12] The costs of the loop-side switch port are also non-traffic sensitive and caused by the provision of the loop in connection with basic local exchange service. Nonetheless, these costs are currently recovered by the per minute local switching charge. Similarly, the NTS costs of white pages directory publication are also caused by the provision of local exchange service to the subscriber but are currently recovered via the information surcharge on ILEC access local switching. These are also economically inefficient mechanisms to recover the cost of these subsidies.

The LPR charge would be assessed to IXCs based upon their percentage share of state or region-wide interstate retail revenues. This is similar to the suggestion made by the Competitive Policy Institute ("CPI").[13] For implementation purposes, Ameritech has suggested that the LPR charge initially be set equal to the current revenues collected from the CCL charge (less payphone and long-term support) plus line-side port costs from local switching plus the information surcharge; and then transitioned to cost over five years. Accordingly, the LPR should be removed from price caps and regulated on a "cost" basis. The LPR charge would only recover costs associated with subscriber loops and ports (and white pages directory production) that are used to provide the ILEC's local exchange service. No costs associated with unbundled loops and associated ports would be recovered by the LPR charge.

Because all loop costs[14] are caused by the provision of local exchange service to the end user, charging <u>any</u> portion to IXCs as a surcharge on their purchase of ILEC access services poses an economic distortion problem. Even the Joint Board's proposed flat-rate charge to IXCs based on their relative share of PIC'ed lines creates an uneconomic incentive for IXCs to "move" their end user customers to CLECs who are not required to recover these costs from their access services. Moreover, the Commission has noted the flat-rate charge does not apply

[13] NPRM at ¶ 61.

[14] Including loop-side port costs and the costs of white pages directory production.

to customers who do not presubscribe to as IXC or to other "dial-around" customers.[15] For that reason, Ameritech believes that the flat-rate scheme is not competitively neutral and will create an economic incentives. Therefore, recovering this subsidy based on a carrier's share of interstate retail revenues would be more competitively neutral since it would not be tied directly to the carrier's purchase of access service.

Further, although this proceeding focuses on price cap LECs,[16] any changes adopted for the recovery of interstate loop and port costs should also apply to rate-of-return LECs.[17] There is so sound reason to apply a different rate structure based solely on the manner in which rates are regulated.

2. The Subscriber Line Charge Should Be Deaveraged and Caps Should Be Eliminated for Certain Lines.

Ameritech supports the removal of the SLC cap on lines used by multi-line business customers and residential lines beyond the primary line.[18] In its comments in response to the notice in CC Docket 96-45 and in response to the Joint Board's recommended decision in that docket, Ameritech explained why universal service funding should not be available for any business line, multi-line or single. Therefore, the SLC cap on all business lines should be removed so that

[15] NPRM at ¶ 60.

[16] Id. at ¶ 50.

[17] Id. at ¶ 61.

[18] Id. at ¶ 65.

ILECs can recover the interstate costs of providing these lines directly from these end users.

When the Commission removes the cap, the interstate costs associated with these lines should be removed from the CCL charge and from any mechanism designed to replace it, including the LPR charge. The current cap on the SLC for these lines is what prevents an ILEC from charging the full loop cost directly to the subscriber. With the cap removed, it would be up to the ILEC to recover all interstate loop costs from the subscriber.

Further, the Commission should not mandate a transition period if the SLC cap is removed on the above mentioned lines.[19] Instead, price cap LECs should be able to transition their SLC rates up to cost over whatever period of time is deemed appropriate in that market or to otherwise recover costs through basic exchange rates.[20]

Finally, the Commission should permit deaveraging of the SLCs to the extent and on the same geographic basis as unbundled loops are available within the state. This would help ILECs price their total local exchange service packages more rationally with the attendant benefit of not presenting potential CLECs with

[19] Id. at ¶ 66.

[20] The costs, however, would be immediately removed from the LPR.

either a mandated price umbrella or such low ILEC rates that they could not compete when using the ILECs' unbundled loops. As Dr. Gordon notes:

> Local loop rates are in most cases being deaveraged by the states in interconnection arbitrations setting rates for unbundled network elements, so failure to deaverage SLCs would create a new set of uneconomic opportunities for access competitors.[21]

Therefore, to the extent that a carrier can deaverage rates to more closely align them with how costs are incurred, the carrier should be permitted to do so.

3. Subscriber Line Charges Should Be Assessed on Facilities, Not on Derived Channels.

As Ameritech articulated in its comments and reply comments on the Commission's NPRM in CC Docket No. 95-72, a SLC should be assessed for each ISDN facility.[22] SLCs were instituted to recover interstate loop costs from end user subscribers. Therefore, assessing the SLC on a per facility basis more closely reflects the manner in which the costs are incurred. Charging SLCs on a derived channel basis would substantially over-recover loop costs from ISDN subscribers. Certainly, nothing in the Act changes how SLCs should be applied to ISDN services.[23]

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[21] Gordon Paper at 19.

[22] NPRM at ¶ 70.

[23] Id.

B. Local Switching Rates Should Be Restructured to Reflect the Way in Which Costs Are Incurred.

1. Non-Traffic Sensitive Costs Should Be Recovered on a Flat-Rate Basis

Ameritech agrees with the Commission's tentative conclusion that a significant portion of local switching costs likely do not vary with usage and that recouping these costs through charges based on switching minutes of use ("MOUs") is inefficient and inappropriate.[24] The NTS costs currently recovered in the usage sensitive local switching rate element are the costs of both the line-side port and the trunk-side port on the other side of the switch.

As previously discussed, the costs of ports on the line-side of the switch should be treated just like other loop costs and, because they are not recovered from the end user via the SLC, should be included in the LPR charge.[25]

To recover trunk-side port costs, it may be appropriate to establish different rate structures depending on whether the traffic passing through the trunk port is carried over shared or dedicated transport services. When the trunk port is used to carry the traffic of all access customers to the access tandem through common transport services, the cost of the trunk port should be recovered by establishing a new usage sensitive trunk-side port charge or by inclusion of these costs in the existing usage-sensitive tandem termination rate element. When the trunk port is

[24] Id. at ¶ 72.

[25] See also Ameritech December 6 Letter.

used to carry the traffic of a single access customer over dedicated transport services, the cost of the trunk-side port should be recovered through a flat-rate trunk-side port charge from the purchaser of the dedicated transport.

When these NTS costs are moved to separate rate elements, the local switching MOU rate would be reduced, with the remaining rate recovering only those switching costs that are usage-sensitive.

2. Traffic-Sensitive Switching Costs Should Be Recovered on a Usage-Sensitive Basis.

a. Call Setup

The Commission has inquired as to whether ILECs should be permitted or required to include a call setup charge as part of their local switching rate structure.[26] The costs of call setup are currently recovered through the local switching MOU charge. Since the costs of call setup and takedown are driven on a per call basis, an MOU charge is an inefficient cost recovery mechanism. Therefore, Ameritech agrees that permitting a per call rate element for call setup would allow rates to more rationally reflect the way in which costs are actually incurred. Further, since the same network activity is required for call setup whether the call is completed or only attempted, a setup charge should apply in both instances.

[26] NPRM at ¶ 76.

In response to the Commission's query,[27] Ameritech would note that call setup costs vary depending on the types of transport involved (direct or tandem). In the case of direct trunking, the signaling transport occurs only once, whereas with a tandem trunk, the signaling transport occurs multiple times. For this reason, between direct and tandem-switched transport there are cost differences for signaling, but not for call setup. Therefore, a single call setup charge should apply to both direct and tandem-switched calls.

The Commission also asked for comment on whether call setup costs vary by type of transport technology.[28] While it is true that the costs of call setup for multifrequency calls are higher than for SS7, SS7 technology is currently used for more than 95% of customers in the Ameritech network. This figure is probably comparable for other large ILECs. Since demand for multifrequency signaling is expected to continue to decline, it is not necessary to create separate charges for such a small percentage of the market.

b. Peak/Off-Peak Pricing

While Ameritech does not oppose allowing ILECs the option to utilize peak/off-peak pricing for local switching,[29] local switching costs are not sensitive to the time of day and, therefore, peak/off-peak pricing should not be required. If

[27] NPRM at ¶ 72.

[28] Id.

[29] Id. at ¶ 78.

mandated, such pricing could actually create incentives for IXCs to leave the public switched network in favor of less expensive alternatives.

c. Switching

If, as noted above, the line-side port cost recovery is removed from local switching and placed in an LPR charge and trunk-side port costs are moved to separate elements, the remainder of the local switching charge should be designed to recover costs in a manner consistent with how they are incurred. In particular, there would be two traffic sensitive components that need to be recovered. The first component would be a per call setup charge, as described above. The second component of local switching would be a charge to recover the cost for the use of the switch on an MOU basis and would be measured by the amount of time the call uses the switch-matrix.

C. Certain Switched Transport Charges Should Be Restructured.

1. Current Rates for Entrance Facilities and Direct-Trunked Transport Are Properly Structured.

The current flat-rate structure for entrance facilities and direct-trunked transport generally reflects how costs are incurred. Therefore, Ameritech agrees that the current rate structure for entrance facilities and direct-trunked transport should be retained.[30] However, ILECs should have additional authority to offer switched access customers new technologies such as SONET for their switched

[30] Id. at ¶ 86.

transport services without having to obtain a Part 69 waiver or pass a public interest test. Further, any pricing flexibility applicable to special access services should also apply to equivalent switched transport services, since these services are functionally equivalent substitutes in the marketplace.

2. Tandem-Switched Transport Rates Should Be Restructured to Reflect the Way Costs Are Incurred and the Way the Services Are Used.

A number of inefficiencies in the current tandem-switched transport rate structure need to be corrected. First, in 1993, the Commission established the tandem switching rate element based on 20% of the interstate tandem cost,[31] with the other 80% of tandem costs being assigned to the TIC. Second, access customers use tandem-switched transport for different purposes -- for overflow carriage at certain times by large IXCs and for all switched transport by small IXCs -- all with the same structure. Third, tandem-switched transport services are priced using mileage measurements which are inconsistent with how traffic is carried and costs are incurred. Ameritech's proposed solution is described below.

As a first step, consistent with the mandate of §254 of the Act to eliminate implicit subsidies, the price cap indices for tandem switched-transport should be increased to reflect the full amount of the tandem costs recovered through the TIC rate element. This would allow each ILEC to increase its tandem switching

[31] In the Matter of Transport Rate Structure and Pricing, CC Docket No. 91-213, Report and Order, FCC 92-422, (released October 16, 1992) ("Transport Restructure Order") 7 FCC Rcd. 7006, at ¶ 59.

rate by the amount it believes to be economically rational given available market substitutes (up to the amount of tandem costs currently embedded in the TIC). Additionally, this would be consistent with the Court of Appeals' recent remand opinion which found that the Commission had failed to adequately justify including only 20% of tandem costs in the tandem switching charge.[32]

As a second step, the Commission should provide ILECs the option to implement a price difference for peak and off-peak tandem switching and tandem facility common transport. This solution would assist the ILECs in resolving the difference between the dual uses of the tandem-switched transport rate structure. Small IXCs who use tandem-switched transport services at all times because they do not have enough traffic to economically justify direct-trunked transport services would on average pay an amount comparable to that paid by large IXCs who use both direct-trunked and overflow tandem-switched transport.

Finally, the Commission should permit ILECs to use any combination of the following proposed rate structures for tandem-switched transport that is more directly in line with the way in which costs are incurred:

Tandem Facility. Currently customers are permitted to obtain tandem-switched transport by paying an MOU per mile rate based on the air miles between the end office ("EO") and the service wire center ("SWC"). Since the facilities between the tandem and the SWC are dedicated, ILECs should be

[32] CompTel vs. FCC, 87 F.3d 522 (D.C. Cir. 1996). NPRM at ¶ 92.

permitted to require customers to purchase this connection as direct-trunked transport on a flat-rate basis. An MOU per mile rate would then apply to the only connection that is truly common transport -- the tandem-to-EO segment.

Host/Remote. Tandem termination and tandem facility rates associated with providing switched transport between host and remote offices should continue to have the same rate structure they have today. These facilities are the same type of inter-office facilities utilized between the tandem and end office and therefore should have the same rate structure.

Tandem Switching. Again, the tandem switching rate should recover all tandem costs, including those currently recovered by the TIC. As with local switching, LECs should have the option to recover NTS tandem switching costs (tandem trunk port costs) separately from the traffic sensitive costs. All customers have dedicated transport connections to those ports and, therefore, should be charged for them on a flat-rate monthly basis, rather than paying for them through the traffic sensitive tandem switching rate.

D. The Transport Interconnection Charge Should Be Treated Consistently with its Role in Supporting Affordable Local Exchange Rates.

The Commission tentatively concluded that some costs currently recovered by the TIC should be assigned to other rate elements while the remainder of the TIC is addressed through a phase-out methodology.[33] The Ameritech proposal for

[33] NPRM at ¶ 117.

addressing the TIC, which is set forth in detail in the December 6 Letter, is generally consistent with this approach. This proposal for TIC will significantly move the industry toward more cost-based rates for access services, thus fostering more economically rational competition. However, any phase-out of the TIC must be coupled with the other proposals for market-based reform and changes to the access rate structure as part of the comprehensive plan for access reform proposed by Ameritech in its December 6 Letter and reinforced in these comments.

As discussed in previous sections, the tandem and SS7 related costs currently recovered via the TIC should be moved to other rate elements that are assessed to users of tandem and SS7 services. Ameritech has already established separate elements for SS7 signal generation, switching, and transport and has reduced the Ameritech TIC rate by a corresponding amount.

Because of the significance of the TIC in contributing to ILECs' ability to maintain affordable basic exchange rates,[34] the Commission should permit the remainder of the TIC to be billed to interstate providers of telecommunications services in a manner similar to that proposed for the LPR charge (i.e., based on share of interstate retail revenues). These amounts should no longer be embedded in switched access rates.

[34] See December 6 Letter for an explanation of the current shortfall in local exchange service rates and the corresponding function of the TIC. See also Gordon Paper at 6-12.